#### BOARD OF SELECTMEN AND SEWER COMMISSIONERS' MEETING August 23, 2010

Acton Town Hall Francis Faulkner Hearing Room Regular Meeting begins at 7:00 P.M.

Executive Session, Room 126, 6:00 P.M.

Present: Lauren Rosenzweig Morton, Michael J. Gowing, Terra Friedrichs, Absent, Janet K. Adachi, Pamela Harting-Barrat. Town Manager, Recording Secretary; Christine Joyce. The Meeting was televised for regular session

Ms. Rosenzweig Morton – Moved to open into public session only to go into Executive Session to discuss strategy with respect to litigation, Crossroad Development, LLC and declared that an open meeting may have a detrimental effect on the negotiation position of the Board of Selectmen; further, that Douglas Wilkins, Esq., Anderson & Kreiger, be allowed in the Executive session. Mr. Gowing took Roll Call, All AYES

#### **CITIZENS' CONCERNS**

Mary Michelman spoke about the WR Grace Report received this morning. She noted that there is no deadline noted for comments regarding the Landfill Capture Zone Evaluation. Lauren asked that our consultant be contacted to look in to this.

#### **CHAIRPERSON'S UPDATE**

Passed over

#### **OPERATIONAL MINUTE**

Town Manager Steve Ledoux announced that Karen Kucala, Town Accountant, is leaving to take a position as the Comptroller in Natick. He added that the Town will miss her and it will be hard to replace her. The Board will discuss this issue later in the Agenda.

Mr. Ledoux reported on the collective bargaining with Highway and Police Patrol and said he hoped the Town could settle in time for inclusion on the Special Town Meeting.

Mr. Ledoux said that the Towne School Project (Old High School Commons) has put its financing together and is positive about moving forward. Mr. Ledoux contacted the Middlesex Bank, which preliminarily has agreed to pick up the last 25% of tax credits for the project.

#### **PUBLIC HEARINGS & APPOINTMENTS**

#### CHRISTOPHER MILES, CONCERNED ABOUT STATE SEX OFFENDER REGISTRY

Christopher Miles resented a slideshow in support of his proposal for a **T**own Bylaw that would restrict Level 2 and 3 sex offenders from areas of town frequented by children and other vulnerable populations. He is concerned that these released sex offenders are at a risk to reoffend, and if they are kept away

from vulnerable potential victims they will be less likely to reoffend, keeping children and others safer. He wants to set up a committee of citizens, a Board member, a representative from Police, and Town Counsel to come to a consensus as to what makes sense for Acton.

Police Chief Widmayer addressed the proposed bylaw and his concerns. Currently, there are 11 Bylaws, including in large-population communities with larger police departments. It is his responsibility to enforce and the laws, not create them. His concerns are the civil enforcement provisions with no authorization for arrest and a limit on fines. Existing sex offenders will not be affected by this bylaw. The Attorney General will need to approve the bylaw if Town Meeting votes to approve it and he does not think the Attorney General will approve. The more cumbersome the bylaw gets the more there will be a problem to enforce. The bylaw will be difficult to implement, given the difficulty of identifying who is a sex offender; and he size of the zone where people could live would be restricted the bylaw, pushing them into limited areas and people in those neighborhoods will be furious. This is a State law and he thinks the State should fix it and he is not comfortable with a Town Bylaw, but will do this if he has to. It would be nice if it was fixed at the State level so that we don't have to do this at the town level.

Mr. Gowing asked for an explanation of Level 1, 2 and 3 offenders that offend. He asked about violent crime and repeat-offenders. The Chief said that there had been no repeat-offenses in town.

Ms. Harting-Barrat asked about number offenders that offend in communities they live in vs. work. Officer Heffernan said he had no numbers on that. She wants to be sure that someone will not come in and not register and go underground because of stringent rules in Acton.

Ms. Adachi said she understands concerns of the parents and wonders whether the law has been helpful. She is concerned that the registered offenders technically have paid their dues, and have been released, and that if they were considered to be a problem they would have more restraints. She has many concerns about the bylaw and agrees with the Police Chief that it is fraught with peril.

Ms. Rosenzweig Morton noted that we want to keep citizens informed. 90% may be getting their life on track and working; the other 10% is what concerns her. She did not want to make people go underground or become homeless. She wants to take a multi-prong approach with schools, the social worker and others in town to interact. She wants to take time and research it further

John Covert said that ACAT looked at this issue. ACAT cannot restrict sex offenders from using the facilities, but would escort them to and from the facility.

John Peterson, said his daughter walks to school. He appreciated Mr. Miles's work but that it would be great to teach children to be wary of dangerous situations, which in general would be more protective. Statistically the frequency of this crime is low, though he can understand why it creates much fear.

A resident of 25 Revolutionary Road said that he received a flyer and was glad to have the notice in his mailbox. He thinks the town should look into the concerns and the children need to be protected.

Ms. Rosenzweig Morton said that the Board will look at the issue and discuss it again.

#### HISTORIC DISTRICT COMMISSION ANNUAL OVERSIGHT MEETING

Kathy Acerbo-Bachmann is the new Chairman. Mr. Gowing gave an overview. Ms. Acerbo-Bachmann said that they are trying to improve the districts and provide educational opportunities. They focused on education this past year. She wanted to have the staff support, such as an Historic Preservation Planner,

that was not funded due to budget cuts. Mr. Gowing asked if they wanted to expand the Districts; she said yes they would. Ms. Rosenzweig Morton suggested the possible use of CPA funds for a study.

### COMMON VICTUALLER LICENSE, 340 MAIN STREET (WITHDRAWN BY APPLICANT)

Ms. Rosenzweig Morton read the notice and declared the petition was withdrawn

#### **EDC ANNUAL OVERSIGHT MEETING**

Doug Tindal reported that the EDC has compiled demographic information about the Town; has provided support to local businesses, for example, in connection with the Sign Bylaw issue; and is seeking to help grow the business base by showing that Acton is business-friendly. The July 15 Minutes provide a good snapshot of what they are doing. They want to do education, and support the business community. They are working with the Chamber of Commerce and doing other things to publicize the assistance the EDC can provide to businesses.

#### CHANGE OF MANAGER, NOT YOUR AVERAGE JOE'S

Was not present, Christine will call to reschedule

#### CAPIZZI AND COMPANY, SITE PLAN SPECIAL PERMIT #6/11/10-427, 820 MAIN STREET

Sidewalk construction was discussed. The applicant has agreed to have the Town construct the sidewalk at \$50 foot or \$20,100. Ms. Rosenzweig Morton noted that it costs more for the Town to construct. She feels the applicant could construct it quicker. Town Planner Roland Bartl noted that the bond can be held, but if the applicant can't do the work less expensively the Town will take the donation. Mr. Bartl will call the adjacent property owner to let them know it is time to fulfill the agreement

Mr. Gowing – Moved to close the Public Hearing. Ms. Adachi – second. UNANIMOUS VOTE.

#### COMMON VICTUALLER LICENSE, GREAT ROAD PUB & GRILLE, INC., 166 GREAT ROAD

The applicant outlined the service they will implement. Mr. Gowing asked about the 40-seat limit. The applicant is comfortable with that. Mr. Gowing – Moved to approve the Common Victualler License. Ms. Harting-Barrat – second. UNANIMOUS VOTE

### TRANSFER OF FULL LIQUOR LICENSE AS A RESTAURANT, GREAT ROAD PUB & GRILL, INC, 166 GREAT ROAD

Ms. Rosenzweig Morton read the legal notice. They have been in business for 18 months in Clinton and propose to operate the same way in Acton. Their employees will all be TIP-trained. They have not had any violations or need to call the Police in Clinton.

Mr. Gowing – Moved to approve the Full Liquor License as a Common Victualler. Ms. Harting-Barrat – second. UNANIMOUS VOTE

#### **SELECTMEN'S BUSINESS**

#### SPECIAL TOWN MEETING DISCUSSION

There is a need for Planning Articles, and articles on the Caouette Land, Shuttle Service needs as well as possible union contract negotiations.

Town Planner Roland Bartl went over the proposed warrant articles from the Planning Board. Ms. Harting-Barrat – Moved to put them on the Special Town Meeting Warrant. Mr. Gowing – second. UNANIMOUS VOTE

#### ACAT DISCUSS REPLACEMENT FOR BRENDAN HEARN'S POSITION

The President and Treasurer of ACAT were present.

Mr. Gowing outlined the need to have ACAT come before us to discuss the vacancy. The Board wanted the chance to screen the applicants and to use other media. John Covert noted that the Board may provide a nomination to the committee and ACAT will put out the word with the needs. Mr. Gowing asked them for their input on what the Board would be looking at in potential candidates. They want someone with a legal degree and someone with accounting would be helpful. Ms. Rosenzweig Morton wanted someone with marketing and programming experience. Ms. Rosenzweig Morton suggested that they meet with Mr. Gowing and bring it back to the Board for discussion about their report. John Covert said that ACAT needs more volunteers.

#### TOWN ACCOUNTANT/ASST. FINANCE DIRECTOR RESIGNATION

Mr. Ledoux noted that the Board needed to vote an Acting Town Accountant. Mr. Gowing – Moved to accept Ms. Kucala's resignation and to appoint Stephen Barrett as the Town Accountant temporarily. Ms. Harting-Barrat – second. UNANIMOUS VOTE. Ms. Rosenzweig noted Ms. Kucala's valuable contributions to the Town.

#### MORRISON FARM REUSE CONTINUING DISCUSSION

The Board continued to discuss what the Board wanted to see moving forward with reference to the list of options that Mr. Gowing had put together. <u>Farmed area</u> –the options are keep the current garden plots reserved for town's people, leave as is; expand the garden plots, bring in a CSA.. Ms. Adachi likes what is going on there and possibly expanding the area.

Ms. Harting-Barrat noted her experience in New York with CSA. She would love to see this here, expanding the garden plots and leave CSA to the folks who are familiar with it. She wanted to expand the organic garden plots and look at CSA later.

Ms. Rosenzweig Morton did not want to expand the garden plots. She feels it is more important to save as much of the meadow as possible. Three members would like to expand the current plots and one prefers no expansion

<u>Sports fields</u> - two choices: leave lower meadow area as is at 6.5 acres, or reduce area to accommodate fields and gardening and CSA. Ms. Harting-Barrat said it was very compelling to not put sports fields there and questioned the need for the fields. She could support some variation mentioned above. Ms. Adachi wishes that active playing fields could be somewhere else, but as a Board member thinks that unless the playing fields proponents indicate otherwise, the plan must include fields.

Ms. Rosenzweig Morton said she agreed with Ms. Adachi to use the meadow area at the pond for active recreation, and save as much of the back meadow toward the stone wall and the woods as possible to have meadow enhancement

Mr. Gowing thinks we should honor those who voted for the land purchase and let the new committee address the issue.

### ACTON COMMUNITY HOUSING CORPORATION REQUEST FOR SPENDING AUTHORIZATION, MCCARTHY VILLAGE II

Ms. Adachi - Moved to use \$20,000 from Community Preservation Fund held by ACHC for housing and Habitat builds. The Housing Authority needs the \$20,000 to help provide the enhanced buffering/screening that abutters want; payment to be contingent on the Board's vote and to be held until AHA moves forward with the project. Ms. Adachi – Moved to authorize the \$20,000 and set a side until such time as they need it, Ms. Harting-Barrat – second. UNANIMOUS VOTE

### RECOMMENDED AMENDMENTS TO THE TRAFFIC RULES AND ORDERS, COMMUTER LOT SHUTTLE SERVICE

Mr. Ledoux updated the Board on the Shuttle Service, which will use the parking lot behind the West Acton fire station. The Town needs to update the Traffic Rules and Orders for the shuttle that will be dropping off and picking up commuters at the Train Station. He noted that Mt. Calvary Church may also have to be approved at a later date to provide Shuttle Service for that side of Town. Ms. Harting-Barrat – Moved to make the amendments to the Traffic Rules and orders. Mr. Gowing – second. UNANIMOUS VOTE

### TD BANK N.A. CONTINUATION OF SITE PLAN SPECIAL PERMIT #4/30/10/424 HEARING, 408 MASS AVE.

Ms. Adachi noted that as the Site Plan liaison working with the Planning Department on the decision draft, she felt strongly that the Board did not want to issue a denial but that an approval by a supermajority would require conditions .addressing the building location.

Ms. Rosenzweig Morton said that the Board wants the applicant in town and noted that they have worked with the Town. Her concerns in preferring to move the building forward were mostly traffic flow and a need to make this pedestrian friendly. She noted that Sovereign Bank accommodated the Town's request to bring the building forward.

Mr. Gowing said we have talked extensively about moving the building forward and other issues such as retaining the two curb-cuts. He noted the right of way issue and the issue of what will be done with the remaining land. There is a need to make this walk-able. He also noted the number of parking spaces and does not see the demand for this amount of parking.

Ms. Harting-Barrat thanked Janet for her work on the decision. Ms. Adachi spoke about her minor changes to the Draft Decision since the Board received it on Friday in the packet.

Mr. Gowing – Moved to accept the Draft Decision as modified by Ms. Adachi. Ms. Harting-Barrat – second. UNANIMOUS VOTE

#### **SELECTMEN'S REPORTS**

Mr. Gowing reported on the recent issue of Boxborough's seeking to take back Acton's water rights. He had a meeting with legislators, Mr. Ledoux, Selina Shaw, Boxborough Town Administrator, and Boxborough Board of Selectmen members Frank Powers and Raid Suleiman The Acton Water District staff—Chris Allen and Matt Mostoller-were also present, as well as Water District Commissioner Steve Stuntz. The Board needs to discuss the issue with the Water District prior to the January legislative filing date so we can let the legislators know if we support or not. Staff was asked to schedule at an upcoming meeting.

Ms. Rosenzweig Morton reported on the first ALG meeting, which was to set ground rules and to talk about some of the issues going forward. Mike noted that the ALG spreadsheet numbers will more clearly relate to the budgets voted at Town Meeting.

Ms. Rosenzweig Morton noted that the Design Review Board has begun to develop design preferences for the expanded areas—multi family and municipal buildings—where the Board is proposing to have the DRB available to provide guidance.

Ms. Harting-Barrat noted that the Clearwater cell tower application was not approved by the Planning Board. The Sidewalk Committee is excited about the Capizzi sidewalk. She noted the comments made by David Honn about the SACAC. She spoke about AHA Sachem Way which has gotten the funding to move forward. The Recreation Dept. has prepared a list of improvements for consideration.

Mr. Gowing reported on the Commission on Disability issues.

Ms. Adachi spoke about the recent scanning by Iron Mountain of years of ACHC documents that ACHC will seek permission from the state to destroy. The Conservation Commission is working on the updating of the Open Space Plan. WANT is meeting every two weeks and she attends every meeting.

#### **CONSENT**

The Board asked that the 10/10/10 concert One day Liquor License be Pulled. Ms. Rosenzweig Morton noted it was the Town Manager's opinion that the Board should deny this application for liquor – Ms. Harting-Barrat – Moved to deny the One Day Liquor License. Mr. Gowing – second. second UNANIMOUS VOTE

Ms. Rosenzweig Morton – Moved to accept the items listed under Consent excluding the 10/10/10 concert One day Liquor. Mr. Gowing– second UNANIMOUS VOTE

#### **EXECUTIVE SESSION**

To discuss Litigation, Crossroads Development, LLC

Motion to adjourn

Christine Joyce, Recording Secty

Clerk

Date: 1/1/16

# BOARD OF SELECTMEN & SEWER COMMISSIONERS' MEETING AGENDA

### Francis Faulkner Hearing Room August 23, 2010 7:00 PM

EXECUTIVE SESSION @ 6:00 p.m. Room 126

6:00 p.m. Executive Session to discuss strategy with respect to litigation, Crossroads Development, LLC.

- I. CITIZENS' CONCERNS
- II. PUBLIC HEARINGS AND APPOINTMENTS
  - 1. 7:05 CHAIRMAN'S UPDATE

    The Chair will briefly update the Board on Topics of interest
  - 2. 7:10 OPERATIONAL MINUTE

    The Town Manager will provide a brief report on topics of interest
  - 3. 7:20 CHRISTOPHER MILES, CONCERNS ABOUT THE STATE SEX OFFENDER REGISTRY

    Enclosed please find materials in the subject regard
  - 4. 7:30 HISTORIC DISTRICT, ANNUAL OVERSIGHT MEETING
  - 5. 7:50 COMMON VICTUALLER LICENSE REQUEST, MS. HANNA RAY, 340 GREAT ROAD, (FORMER CAFÉ ZIBA)

    APPLICATION WITHDRAWN BY APPLICANT (need to read legal notice)
  - 6. 7:55 ECONOMIC DEVELOPMENT COMMITTEE, ANNUAL OVERSIGHT MEETING
  - 7. 8:10 CHANGE OF MANAGER, NOT YOUR AVERAGE JOE'S Enclosed please find materials in the subject regard
  - 8. 8:20 CAPIZZI & COMPANY, CONTINUED SITE PLAN HEARING #06/11/10-427, 820 MAIN STREET

    Enclosed please find materials in the subject regard

## 9. 8:40 GREAT ROAD BAR AND GRILLE, INC. COMMON VICTUALLER LICENSE

Enclosed please find materials in the subject regard

# 10. 8:50 GREAT ROAD BAR AND GRILLE, INC., TRANSFER OF A FULL LIQUOR LICENSE FROM ICHABOD'S TO GREAT ROAD BAR & GRILLE, 166 GREAT ROAD

Enclosed please find materials in the subject regard

#### III. SELECTMEN'S BUSINESS

#### 11. SPECIAL TOWN MEETING DISCUSSION

Enclosed please find a partial list of warrant articles submitted by the Planning Department

## 12. ACAT, DISCUSS REPLACEMENT TO FILL BRENDAN HEARN'S RESIGNATION

Enclosed please find materials in the subject regard

### 13. TOWN ACCOUNTANT / ASSISTANT FINANCE DIRECTOR'S RESIGNATION

Enclosed please find materials in the subject regard

#### 14. MORRISON FARM REUSE CONTINUING DISCUSSION

Enclosed please find materials in the subject regard

# 15. ACTON COMMUNITY HOUSING CORPORATION (ACHC) REQUEST FOR SPENDING AUTHORIZATION, LANDSCAPING FOR MCCARTHY VILLAGE II

Enclosed please find materials in the subject regard

## 16. RECOMMENDED AMENDMENTS TO THE TRAFFIC RULES AND ORDERS, COMMUTER LOT SHUTTLE SERVICE

Enclosed please find materials in the subject regard

### 17. TD BANK N.A., SITE PLAN 4/30/10-42, DRAFT DECISION, 408 MASSACHUSETTS AVE

Enclosed please find materials in the subject regard

#### 18. SELECTMEN'S REPORTS

#### 19. OTHER BUSINESS

#### IV. CONSENT AGENDA

## 20. REQUEST FOR APPROVAL OF CHANGES TO THE SCHOOL ZONE SIGNS AT EXISTING ELEMENTARY SCHOOLS

Enclosed please find materials in the subject regard

#### 21. RATE SETTING, TRANSFER STATION PERMIT FEE

Enclosed please find materials in the subject regard

#### 22. PROCLAMATION FOR UNITED NATIONS DAY AS OCTOBER 24, 2010

Enclosed please find materials in the subject regard

#### 23. BOY SCOUT COURT OF HONOR, IAN BRISTOL WHATCOTT

Enclosed please find materials in the subject regard.

## 24. COMMITTEE APPOINTMENT, CHRISTOPHER DALLMUS, DESIGN REVIEW BOARD – MOVING FROM ASSOCIATE TO FULL MEMBER

Enclosed please find materials in the subject regard

# 25. BOARD TO VOTE ON THE SPECIAL MUNICIPAL EMPLOYEE DESIGNATION WHICH INCLUDES THE GREEN ADVISORY BOARD

AND OTHER NEWER COMMITTEES THAT HAVE BEEN CREATED SINCE OUR LAST UPDATE OF DESIGNATION IN 2005.

Enclosed please find materials in the subject regard

#### 26. ONE DAY LIQUOR LICENSE, NARA PARK, FAMILY EVENT

Enclosed please find materials in the subject regard

#### 27. ONE DAY LIQUOR LICENSE, NARA PARK, 10/10/10 CONCERT

Enclosed please find materials in the subject regard

### 28. ONE DAY LIQUOR LICENSE, EXCHANGE HALL, A/B FRIENDS OF MUSIC

MOSIC

Enclosed please find materials in the subject regard

#### 29. DISPOSAL OF OBSOLETE MATERIALS, ACTON MEMORIAL LIBRARY

Enclosed please find materials in the subject regard

### V. EXECUTIVE SESSION — 6:00 P.M. ROOM 126, LITIGATION STRATEGY, CROSSROADS

DEVELOPMENT, LLC.

#### **ADDITIONAL INFORMATION**

Enclosed please find additional correspondence that is strictly informational and requires no Board action.

#### **FUTURE AGENDAS**

To facilitate scheduling for interested parties, the following items are scheduled for discussion on future agendas. This is not a complete agenda.

#### **SEPTEMBER 13**

Red White and Brew Transfer of location of Beer and Wine liquor license WRAC Oversight Meeting, WANT Oversight meeting, 60 Powder Mill Road, 107 Great Road, Mr. Bertolami, continued discussion. Site Plan Special Permit, 232 Arlington Street, West Acton Trio, LLC., CLURA Discussion

#### **SEPTEMBER 27**

Restorative Justice, Board of Health Oversight Meeting

#### **MINUTES PENDING VOTES**

June 7 & 21 July 12, 26 and 28

#### PENDING COMMITTEE APPOINTMENTS

David Barrat - Associate, Community Preservation Committee - sent to VCC

Peter Ashton - Associate, Community Preservation Committee - sent to VCC

James Chiarelli, Associate, Historical Commission - sent to VCC

Betsy Mercier - Recreation Commission -sent to VCC

Michael A. Luongo - Board of Appeals, Board of Health, Application sent to VCC

Fenglan Zhang - (Minuteman Voc and South Acton Revitalization Committee) note that we currently have a Minuteman

Rep. and the South Acton Revitalization committee is no longer a committee - sent to VCC

Ahmed Hilmy - Design Review Board, Finance Committee, EDC -Application sent to VCC and Town Moderator

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